

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

GREENIE A. WEAVER,

No. C 14-03654 LB

Plaintiff(s),

v.

**ORDER REGARDING  
TELEPHONE APPEARANCE AND  
FAILURE TO PROSECUTE**

CITY AND COUNTY OF S.F. ET AL,

Defendant(s).

The court previously referred this case for a settlement conference with Judge Vadas, who set a scheduling conference on February 10, 2015. (ECF Nos. 30, 33.).<sup>1</sup> Mr. Weaver did not appear, and Judge Vadas scheduled another scheduling conference on February 24, 2015. (ECF No. 34.) Mr. Weaver then asked to appear by telephone at that conference and in general in his case, saying that he had moved to Seattle, had been threatened, feared for his life, and was unable to get an ID. (ECF Nos. 36, 38.) Mr. Weaver did not appear at the scheduling conference on February 24, 2015, although the record is not clear whether his request to appear by telephone was considered. (ECF No. 39.) Counsel for the defendants did appear by phone. (*Id.*)

In the case management conference statement filed on March 11, 2015, Defendants' counsel

<sup>1</sup> Citations are to the Electronic Case File ("ECF"); pin cites are to the ECF-generated page numbers at the top of the page.

1 explains that on December 18, 2014, he noticed Mr. Weaver's deposition for January 28, 2015 at  
 2 10:00 a.m., but Mr. Weaver did not appear. (ECF No. 40.) Counsel left messages for Mr. Weaver,  
 3 but did not reach him. (*Id.*) Several weeks later, Mr. Weaver called, saying that he had moved to  
 4 Seattle. (*Id.*) This was shortly before he filed his letters asking to appear by telephone. (*Id.*)  
 5 Before his recent move, Mr. Weaver was diligent in working with counsel and coming to his court  
 6 appearances. (*See* docket.) He also provided disclosures, including a letter from his public defender  
 7 describing how the charges against him were dropped in part because of video evidence.

8 Given this context, the court will allow Mr. Weaver to appear by telephone at the March 19,  
 9 2015 case management conference, which has been moved to 9:30 a.m. The court will email a copy  
 10 of this order to Mr. Weaver at greenieweaver@yahoo.com, which is the email address that he has  
 11 provided, and will provide instructions on how to appear by telephone. Still, Mr. Weaver has filed a  
 12 lawsuit, and he must participate in it by appearing for his deposition, his settlement conference, and  
 13 other court dates. If he does not, he risks dismissal of his case without prejudice for failing to  
 14 prosecute it. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (court may dismiss an  
 15 action based on a party's failure to prosecute an action); *see also Pagtalunan v. Galaza*, 291 F.3d  
 16 639, 642 (9th Cir. 2002) (setting forth five non-exhaustive factors for the court to consider). The  
 17 court will address these matters with Mr. Green at the March 19, 2015 case management conference.

18 The court previously gave Mr. Weaver a copy of the district court's *Handbook for Litigants*  
 19 *Without a Lawyer*, which is available for download at <http://www.cand.uscourts.gov>. (ECF No. 18.)  
 20 It provides instructions on how to proceed at every stage of a case, including discovery, motions,  
 21 and trial. The court reminds Mr. Weaver that he may wish to seek assistance from the Legal Help  
 22 Center, a free service of the Volunteer Legal Services Program, by calling 415-782-8982, or by  
 23 signing up for an appointment on the 15th Floor of the Federal Courthouse in San Francisco, 450  
 24 Golden Gate Avenue, San Francisco, California. At the Legal Help Center, pro se litigants are able  
 25 to speak with an attorney who may be able to provide basic legal help but not representation.

26 **IT IS SO ORDERED.**

27 Dated: March 17, 2015

28   
 LAUREL BEELER  
 United States Magistrate Judge